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->From the Editor's Keyboard "Saying it like it is!"

Happy Friday the 13th!! It seems like this week has been a perfect example of unfortunate events that superstition usually occur on this day. That said, it hasn't been a good week here, ulminating in a later than usual issue release! So, without even considering some poignant remarks this week, let's just get to the issue straightaway!

Until next time...

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->In This Week's Gaming Section - Video Game Sales on the Rise As Launches Approach
Sony Unveils Tiny PlayStation Vita TV Set-Top Box
'Pong' Creator Back with Trivia Card Game!

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->A-ONE's Game Console Industry News - The Latest Gaming News!

Video Game Sales on the Rise As Xbox One, PS4 Launches Approach

The thriving video game industry has struggled in recent years to maintain the momentum it developed over the last decade, but according to a recent report from the NPD Group, August 2013 represents the first month for year-over-year growth in sales since October 2011. The report states that retail sales grew a modest 1% over August 2012 as growth in software and accessories offset soft hardware sales as we near the launch of the Xbox One and PS4.

It is important to keep in mind that the NPD Group only directly accounts for physical retail sales, but when taking into account estimates of digital sales, paid downloadable content, and rentals, the research firm believes the total consumer spend for August was more than $1.2 billion. The primary reason for the growth was an incredibly strong lineup of software, which included Madden 25, Saints Row IV, Splinter Cell: Blacklist, and the accessory-heavy Disney Infinity. Software launched in August 2013 made up 58% of video game sales that month as opposed to a meek 24% in August 2012.

Predictably, hardware sales have continued to slide as the releases of the Xbox One and PS4 approach, although the 3DS and Xbox 360 remain at the top of heap. The surge in software sales is a positive sign with new hardware on the way, and might hint at a very strong 2014 for the video game industry.

Sony Unveils Tiny PlayStation Vita TV Set-Top Box

Sony today unveiled the PlayStation Vita TV, a tiny set-top box device that will offer Japanese consumers a new way to consume entertainment.

The company also unveiled the thinner, lighter Sony PlayStation Vita 2000, which is aimed at attracting new PS Vita gamers.

During a press conference in Tokyo today, the electronics giant revealed its smallest PlayStation device to date 6.4 cm by 10.5 cm with an equally miniature $100 (9,954 Yen) price tag. Set for a Nov. 14 launch, the PS Vita TV turns your television into an all-encompassing entertainment system, where users can play games or watch movies and TV shows - much like the Roku, Google Chromecast, or Apple TV.
Advertisement

With PS Vita TV, you can send Vita games to the TV and play with a DualShock 3 controller. Those who purchase the PlayStation 4, though, will be able to link up their PS Vita TV to the new console for "remote play." So, if someone wants to watch Breaking Bad in the living room, you can stream a game from the PS4 there to the PS Vita TV in the basement and play down there.

The machine "allows TV to evolve and make it more fun," Andrew House, president and group CEO of Sony Computer Entertainment, said Monday.
PS Vita 2000

He boasted access to a number of Japanese-based content services, as well as Hulu and the PlayStation Store and 1,300 games at launch most titles found in the PS Vita, PSP, and first-generation game archives. Vita games that require a touch screen, motion sensors, camera, and other components are not available via the TV device. A full list of Vita games playable with the Vita TV is available online.

There is no word on whether the PS Vita TV will make its way to other regions.

Sony also revealed its new handheld console, the PS Vita 2000, which is 20 percent lighter and 15 percent thinner than the current device. The electronics maker added six color variations, aimed at attracting women and children.

Don’t get too excited about the 5-inch HD LCD display, 1GB memory card, or extended battery life the Vita 2000 will launch exclusively in Japan on Oct. 10 for $200 (19,929 Yen), with no word on expansion to foreign markets.

If you’ve just got to have a PlayStation Vita, though, head to your local retailer for the discounted console, now $199. Sony also slashed the price of the Vita in Japan in February, which led to "a remarkable increase in hardware and software" sales, the company said today.

Though Sony’s press conference focused solely on the Vita and its family of products, the company also revealed today that it will launch the upcoming PlayStation 4 on Feb. 22 in Japan three months after its Nov. 15 release in North America.

’Pong’ Creator Back with Trivia Card Game

Atari’s third-ever employee and the creator of the classic video game "Pong" has taken to Kickstarter for his next video game project.

Seriously?!

The creator of the classic video game "Pong" has taken to Kickstarter for his next video game project.

When it comes to video games, you can’t get much more classic than "Pong," the 1972 Atari game which essentially spearheaded the ascension of the modern video game industry. But now that even Atari’s US chapter has been forced to file for bankruptcy, what is "Pong" creator Al Alcorn to do when he’s inspired to produce a new video game?

Like many colleagues, Alcorn has looked to Kickstarter for the answer.

Along with fellow Atari veteran Roger Hector, Alcorn recently launched a Kickstarter campaign for a trivia card game called "Seriously?!" The game will run on iOS and Android and the game developers note that it will be "hosted" by a "Siri-like" character essentially, a snarkier version of the iconic virtual assistant that’s already become the butt of so many jokes. There are also plans to introduce a number of celebrity hosts including Atari founder Nolan Bushnell, who makes a guest appearance in the game’s pitch video.

As a comic trivia game, "Seriously?!" bears an unmistakable homage to popular games like "Cards Against Humanity" (basically a more adult version of "Apples to Apples") and "You Don’t Know Jack" (the same, but for "Who Wants To Be A Millionaire"). The idea with "Seriously?!" is to combine tabletop games like "Cards" with their virtual counterparts. Phones or tablets running the game will scan the physical cards and then play a visual or audio cue for contestants. Kickstarter backers will also be able to submit their own sample questions or challenges for the game. Alcorn and Hector said that anyone who gets their work accepted will be credited as a game designer in the final product.

With 25 days left to go, "Seriously?!" has a little more than $3,300 of its $100,000 goal. [Editor’s note: The Kickstarter campaign failed to help raise the necessary funding]

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A-ONE's Headline News
The Latest in Computer Technology News
Compiled by: Dana P. Jacobson

Officials Misused US Surveillance Program

U.S. officials for nearly three years accessed data on thousands of domestic phone numbers they shouldn't have and then misrepresented their actions to a secret spy court to reauthorize the government's surveillance program, documents released Tuesday show.

The government's explanation points to an enormous surveillance infrastructure with such incredible power that even the National Security Agency doesn't fully know how to properly use it: Officials told a judge in 2009 that the system is so large and complicated that "there was no single person who had a complete technical understanding" of it.

The documents, which the Obama administration was compelled to release as part of a lawsuit by a civil liberties group, show that National Security Agency analysts routinely exceeded their mission to track only phone numbers with reasonable connections to terrorism.

Officials said that the complexity of the computer system and a misunderstanding of the laws, court orders and internal policies controlling analysts' actions contributed to the abuses. There's no evidence that the NSA intentionally used its surveillance powers to spy on Americans for political purposes, a fear of many critics who recall the FBI's intrusive surveillance of civil rights leaders and protesters in the 1960s.

"The documents released today are a testament to the government's strong commitment to detecting, correcting and reporting mistakes that occur in implementing technologically complex intelligence collection activities, and to continually improving its oversight and compliance processes," said Director of National Intelligence James Clapper. "As demonstrated in these documents, once compliance incidents were discovered in the telephony metadata collection program, additional checks, balances and safeguards were developed to help prevent future instances of noncompliance."

The Obama administration had conceded earlier that, when it secretly began gathering Americans' phone and Internet records in 2006, it scooped up more domestic phone calls and emails than Congress or a court authorized. But many details of the program's abuse were not known until Tuesday.

In a sweeping violation of court-imposed surveillance rules that went on daily between 2006 and 2009, the documents show the NSA tapped the bulk telephone records and compared them with thousands of others without "reasonable, articulable suspicion," the required legal standard.

The NSA told the Foreign Intelligence Surveillance Court it misunderstood restrictions on accessing data once it was archived, but Judge Reggie B. Walton wrote in a March 2009 order that such an interpretation of the court's orders "strains credulity." He was so fed up with the government's overreaching that he threatened to shutter the surveillance program.

After discovering government officials had been accessing domestic phone records without a sufficient connection to terrorism for nearly three years, the judge said in a blistering opinion that he had "lost confidence" in officials' ability to legally operate the program.

Walton noted, for instance, that just 1,935 phone numbers out of 17,835 on a list investigators were working with in early 2009 met the legal standard.

The judge ordered the NSA to conduct an "end-to-end" review of its processes and policies while also ordering closer monitoring of its activities.

Later in 2009, a Justice Department lawyer reported to the spy court a "likely violation" of NSA surveillance rules. The lawyer said that in some cases, it appeared the NSA was distributing the sensitive phone records by email to as many as 189 analysts, but only 53 were approved by the spy court to see them.

Walton wrote that he was "deeply troubled by the incidents," which he said occurred just weeks after the NSA had performed a major review of its internal practices because of the initial problems reported earlier in the year.

The judge said in November 2009 that on the same day the NSA counterterrorism office reminded employees they were not allowed to indiscriminately share phone records with co-workers and one day after a similar reminder from the agency's lawyers an NSA analyst improperly shared information with colleagues who were not approved by the intelligence court to see it.

Walton also noted that sometimes a U.S. phone number would be reassigned by a phone company, and in such cases the NSA would scrutinize the records of an innocent customer. Walton called such cases "a source of concern by the court." He noted that, months earlier, the court ordered the NSA to explain more fully how it chooses which phone numbers to search and to delete any information that was improperly collected.

"This report was not sufficiently detailed to allay the court's concerns," Walton wrote. He ordered the NSA going forward to regularly tell the court the number of phone records searched, the time period when they could be searched, and details about how the NSA analysts were conducting searches suggested by results from other searches.

The hundreds of previously classified documents federal officials released Tuesday came in response to a lawsuit filed by the Electronic Frontier Foundation.

The Obama administration has been facing mounting pressure to reveal more details about the government's domestic surveillance program since a former intelligence contractor released documents showing massive trawling of domestic data by the NSA.

The data included domestic telephone numbers, calling patterns and the agency’s collection of Americans’ Internet user names, IP addresses and other metadata swept up in surveillance of foreign terror suspects.

The Obama administration’s decision to release the documents comes just two weeks after it declassified three secret Foreign Intelligence Surveillance Court opinions including one in response to a separate EFF lawsuit in the federal court in Washington. In that October 2011 opinion, Judge John D. Bates said he was troubled by at least three incidents over three years where government officials admitted to mistaken collection of domestic data.

The NSA’s huge surveillance machine proved unwieldy even for the experts inside the agency. In a long report to the surveillance court in August 2009, the Obama administration blamed its mistakes on the complexity of the system and "a lack of shared understanding among the key stakeholders" about the scope of the surveillance.

Complexity has been a theme since the NSA leaks began this summer. Though Obama said Congress was briefed on the programs, members of Congress said they were surprised to learn how vast and intrusive the surveillance was. Even Rep. James Sensenbrenner, who sponsored the Patriot Act, said he never knew it would be used to sweep up phone records of every American.

Google Chairman Won t Pass Judgement on NSA Spying

It seems that Google s call for more transparency on the National Security Agency s data collection program isn t personal but just business. The Guardian reports that Google chairman Eric Schmidt this week said that he wouldn t pass judgement against the NSA s program since such surveillance is the nature of our society. However, Schmidt still said that he wanted the government to let his company reveal more about what it discloses to the NSA since revelations about the agency s PRISM program have created an atmosphere of mistrust among overseas companies and governments.

 The real danger from the publicity about all of this is that other countries will begin to put very serious encryption we use the term balkanization in general to essentially split the Internet and that the Internet s going to be much more country specific, Schmidt said at a New York event hosted by the New America foundation. That would be a very bad thing, it would really break the way the Internet works, and I think that s what I worry about. There s been spying for years, there s been surveillance for years, and so forth, I m not going to pass judgment on that, it s the nature of our society.

Google and Microsoft recently teamed up to file a lawsuit against the government to let them disclose more information on what data they collect and share with the NSA as part of compliance with the Foreign Intelligence Surveillance Act (FISA). Many American companies have complained that revelations about the NSA s data collection practices have hurt their relationships with foreign companies and governments so it won t be surprising to see a bigger lobbying push from the tech sector for more transparency in the coming months.

Brazil’s Rousseff Targets Internet Companies After NSA Spying

Angered by reports that the U.S. government spied on her and other Brazilians, President Dilma Rousseff is pushing new legislation that would seek to force Google, Facebook and other internet companies to store locally gathered data inside Brazil.

The requirement would be difficult to execute, technology experts say, given high costs and the global nature of the Internet. Still, Rousseff’s initiative is one of the most tangible signs of a backlash following revelations that the U.S. National Security Agency monitored emails, phone calls and other communications abroad.

The legislation, which is being written by a lawmaker in Rousseff’s left-wing Workers’ Party and is scheduled to be completed next week, would force foreign-based internet companies to maintain data centers inside Brazil that would then be governed by Brazilian privacy laws, officials said.

Internet companies operating in Brazil are currently free to put data centers wherever they like. Facebook Inc, for example, stores its global data in the United States and a new complex in Sweden.

Rousseff believes that the change would help shield Brazilians from further U.S. prying into their activities, and she is considering urging other countries to take similar measures when she speaks at the United Nations General Assembly later this month, a senior Brazilian official told Reuters.

"This would be a turning point for these companies," the official said, naming Facebook, Google Inc and Microsoft Corp as examples, although they would not be the only companies affected. "If you want to work here, you will have to obey our rules."

The official spoke on condition of anonymity to frankly discuss Rousseff’s plans and the consequences of the law.

The proposal follows a series of media reports based on documents leaked by Edward Snowden, a former NSA contractor who is now in asylum in Russia.

While Brazil is one of several countries named as targets in the documents, the revelations have been especially controversial here because of a long-standing distrust of U.S. spy agencies’ activities in Latin America and a report that Rousseff’s own communications were compromised.

In another sign of concern from the region, Brazil’s Defense Minister Celso Amorim said on Thursday he planned to discuss a plan for bilateral cooperation on cyber defense with Argentina’s president, Cristina Fernandez, during a meeting in Buenos Aires.

Alessandro Molon, a legislator in Brazil’s house of deputies, was invited to the presidential palace on Tuesday to meet with Rousseff, several ministers and other top aides to discuss the proposed changes to data storage requirements.

Molon has been pushing Congress since 2012 to pass a bill known as the "Internet Constitution." The law would establish Brazil’s first legal framework for users’ rights online, and among other requirements would

force social media companies to delete users' data once they close their profiles.

The president asked Molon to add language to the bill regarding data centers, Molon's spokesman Leonardo Santos said.

Following the meeting, Rousseff's office filed a motion in Wednesday's edition of the government's official gazette that seeks to force Congress to vote on the bill in the next 45 days.

Santos said Molon has been in regular contact with internet companies over the past year and he is aware of the technical challenges posed by Rousseff's request and other provisions.

The proposed changes are "difficult, as they (the companies) say, but I don't know if they're impossible," Santos said.

Santos declined to provide further details of the legislation, such as which types of data would be covered by the law or which categories of companies would be subject to such rules, saying such questions were still under study.

Bill Coughran, a former senior vice president of engineering at Google and now a partner at top-tier venture firm Sequoia Capital, said Brazil would not be able to impose controls on the transport of all data.

A more likely outcome would be less onerous restrictions that keep some data local, which might add to corporate expenses and reduce income while making the consumer experience slightly worse, he said.

"Balkanization would increase the complexity of how you manage your business," Coughran said.

Representatives for Facebook and Microsoft did not immediately respond to requests for comment.

Some European countries already require certain sensitive personal data to be stored locally. Microsoft, Amazon and other big providers of remote computing services have data centers in those countries so their customers can comply with local regulations.

Social media may be more difficult to govern. If a Facebook user in Brazil commented on a French friend's post, for example, it is not clear how that data could stay in Brazil.

Studies suggest building data centers in Brazil is more expensive and logistically difficult than many other countries.

A 2012 report by real estate firm Cushman & Wakefield and hurleypalmerflatt, an engineering consultancy, ranked 30 nations in terms of risks posed to data center operations. Brazil finished in last place, due primarily to high electricity costs, low education levels and a poor environment for doing business.

However, as Latin America's largest economy and home to some of the world's most prolific users of social media, Brazil may be too big for companies to just walk away from if they do not like the legislation.

Brazil's internet penetration rate is 44 percent - half that of the United States - meaning it still has plenty of growth potential.

The new legislation is one of several responses by Rousseff to the reported spying.

She has demanded a detailed account from Washington on the extent of its espionage in Brazil, and said that otherwise she may cancel a planned state visit to Washington next month.

Her government has so far rejected Washington’s contention that it gathers intelligence only to guard against threats to U.S. national security. Brazil is a peaceful democracy with no history of international terrorism and no access to weapons of mass destruction.

The senior Brazilian official voiced a belief that the data storage bill would not only work but other countries would follow suit, naming other members of the BRICS bloc of large emerging markets: China, India, Russia and South Africa.

"Once we do it, it will become a standard," the official said.

Verizon - F.C.C. Court Fight Takes On Regulating Net

Few people would dispute that one of the biggest contributors to the extraordinary success of the Internet has been the ability of just about anyone to use it to offer any product, service or type of information they want.

How to maintain that success, however, is the subject of a momentous fight that resumes this week in the United States Court of Appeals for the District of Columbia Circuit. The battle pits one of the largest providers of Internet access Verizon against the Federal Communications Commission, which for nearly 80 years has been riding herd on the companies that provide Americans with telecommunications services.

Verizon and a host of other companies that spent billions of dollars to build their Internet pipelines believe they should be able to manage them as they wish. They should be able, for example, to charge fees to content providers who are willing to pay to have their data transported to customers through an express lane. That, the companies say, would allow the pipeline owner to reap the benefits of its investment.

The F.C.C., however, believes that Internet service providers must keep their pipelines free and open, giving the creators of any type of legal content movies, shopping sites, medical services, or even pornography an equal ability to reach consumers. If certain players are able to buy greater access to Internet users, regulators believe, the playing field will tilt in the direction of the richest companies, possibly preventing the next Google or Facebook from getting off the ground.

The court is set to hear oral arguments starting Monday morning in Verizon v. F.C.C., which is billed as a heavyweight championship of the technology world, setting the old era against the new.

 This will determine whether the laws and regulations of the past the pre-Internet age will apply to the Internet s future, said Scott Cleland, the chairman of NetCompetition, a group sponsored by broadband companies, including Verizon. It will determine the regulatory power and

authority of the F.C.C. in the 21st century.

Susan Crawford, a supporter of the F.C.C. s position who is co-director of the Berkman Center for Internet & Society at Harvard and a professor at Yeshiva University s Cardozo School of Law, called the showdown a moment of grandeur.

 The question presented by the case is, does the U.S. government have any role to play when it comes to ensuring ubiquitous, open, world-class, interconnected, reasonably priced Internet access? Ms. Crawford said. Does the government have good reason to ensure that facility in America?

European countries are similarly struggling with whether and how to regulate Internet service. The Netherlands has some wireless regulations in place, and France this year introduced strict anti-discrimination measures. But while European Union officials have voiced support for what is known as net neutrality, a recent proposal gives Internet providers great leeway. In December 2010 the F.C.C. issued its Open Internet Order, an 87-page set of instructions directing Internet service providers not to block or to unreasonably discriminate against any type of Internet traffic deemed not harmful to the system. The only exception to the open access principle is for reasonable network management, a loosely defined term that allows a company to do what it takes to keep its network up and running.

Internet service providers also were ordered to disclose how they manage their networks and how their systems perform   like how they handle congestion when a large portion of users are, for example, downloading high-definition video.

The order was necessary, the F.C.C. said in court papers, because there were significant threats to openness, and thus to the engine that has driven investment in broadband facilities. In the past, the F.C.C. said, several broadband access providers had blocked or degraded service. One was Comcast, which in 2008 was punished by the F.C.C. for blocking access by some of its users to the file-sharing service BitTorrent, which was often used for the unauthorized exchange of movies or music.

 Other providers have the technological capability and the economic incentive to engage in similar acts, the commission said. And with the majority of Americans having only two wireline broadband choices (many have only one), market discipline alone could not guarantee continued openness. The F.C.C. s rules generally are more strict for wireless carriers, because those networks are more susceptible to congestion.

In the Comcast case, the cable company appealed the F.C.C. ruling, and the D.C. federal appeals court   the same court hearing the Verizon case said in 2010 that the agency had overstepped its bounds, failing to show that it had the authority to regulate an Internet service provider.

It is in fact far from easy for the F.C.C. to demonstrate that it has such authority. That is because in 2002 the commission, then led by Michael K. Powell, a Republican, voted to classify Internet service as an information service rather than a telecommunications service.

The difference meant that Internet providers were not subject to regulation like a telephone company. Instead, they were free of restrictions on rates and exempt from regulations that would require them to open their networks to allow competitors to offer lower-cost service

over the same pipes.

The judge who wrote the Comcast decision, David S. Tatel, is one member of the three-judge panel that will hear Verizon s appeal. Many industry experts view the two other judges as highly likely to take opposing sides, leaving Judge Tatel as the swing vote.

Verizon argues that the F.C.C. s Open Internet Order should be struck down because it is arbitrary and capricious, and aims to prevent activity that is not taking place. It argues in its court filings that the F.C.C. has documented only four examples, over six years, of purported blocking of Internet content by service providers.

During those six years, the company said, end users successfully accessed the Internet content, applications and services of their choice literally billions of times.

More broadly, Verizon argues that the F.C.C., as in the Comcast case, fails to identify any statutory authority for the rules. And in fact, Verizon said, the F.C.C. order is so broad that it would give the commission the power to regulate all sectors of the Internet economy without limit.

The court is likely to take several months to issue its decision, lawyers involved in the case say perhaps before the end of the year, but more likely in 2014. When the ruling comes, many people will be waiting. More than 400 organizations or individuals weighed in at the F.C.C. when the rules were being considered. More than 60 signed legal briefs supporting the F.C.C., while at least a dozen did so backing Verizon.

Net Neutrality Faces Uncertain U.S. Court Ruling

It s difficult to predict how an appeals court will rule after it hears arguments Monday in Verizon Communication s challenge of the U.S. Federal Communications Commission s net-neutrality rules.

Groups on both sides of the debate over the FCC s rules prohibiting broadband providers from selectively blocking or slowing traffic say they believe they have a good case at the U.S. Court of Appeals for the District of Columbia Circuit. Reading the court s tea leaves has become as much of a case of wishful thinking as a predictive science.

On one hand, the same appeals court ruled against the FCC in April 2010, when the agency tried to force Comcast to comply with an Internet policy statement after the cable broadband provider was caught slowing BitTorrent and other bandwidth-hogging applications. The court said then that the FCC lacked any statutorily mandated responsibility to enforce network neutrality rules.

The legal situation has changed since then, however. Last December, the same appeals court ruled in favor of the FCC after Verizon Wireless had challenged the agency s authority to impose data roaming rate rules on mobile carriers. The question over the FCC s authority to impose data roaming rules is similar to the one raised by Verizon in the net neutrality case, some telecom experts said.

Then, in May, the U.S. Supreme Court ruled, in a case called City of

Arlington v. FCC, that a regulatory agency generally be given broad deference when interpreting its own authority when statutory ambiguity exits. That decision could influence the upcoming appeals court decision, some experts said, although others cautioned that the cases have significant differences.

Adding to the difficulty in predicting an outcome: The court has a number of options it could take. It could strike down the FCC s net neutrality order, it could uphold it, or it could take some type of middle ground. For example, the court could kick back the rules to the FCC by saying the agency may have the authority but hasn t made its case.

Verizon argues that the FCC doesn t have authority to regulate an information service, a class of communications that the agency has previously exempted from most regulation. The net neutrality rules are a violation of Verizon s First Amendment free speech rights and its Fifth Amendment property rights, the company has argued.

The agency has claimed broad authority over broadband using twisted regulatory logic, Verizon s lawyers wrote in their brief to the appeals court. As with the earlier Comcast case, the FCC has acted without statutory authority to insert itself into this crucial segment of the American economy, while failing to show any factual need to do so, Verizon said in the court brief.

That earlier Comcast decision from the same court presents a major hurdle for the FCC, said Randolph May, president of the Free State Foundation, a free market think tank that has joined a brief calling for the court to overturn the rules. Although the FCC, in its 2011 net neutrality order, made an effort to beef up its argument that it possesses authority under the Communications Act to regulate Internet access service, I think the overall impression is that the agency is reaching too far, May said by email.

May would lean toward the FCC losing the case, he said. The court will look at whether the FCC s net neutrality rules were reasonable, May said, and many critics have argued the regulations were unnecessary because there have been few examples of violations.

Even if the court finds that the FCC possesses authority under the statute, there is a pretty good chance the court will find, in light of the lack of persuasive findings concerning market failure, consumer harm, or impact on investment and innovation, that the agency s decision is arbitrary and capricious, May said.

The Free State Foundation, free market think tank TechFreedom and other critics of the net neutrality rules argue in their brief that the U.S. government could police major violations of net neutrality principles under existing antitrust law.

If the appeals court strikes down the rules, net neutrality will be dealt with the same way concerns about competition are dealt with throughout the rest of the economy, Berin Szoka, president of TechFreedom, said by email.

The TechFreedom/Free State Foundation brief also repeats concerns that the rules violate broadband providers free speech rights. By denying Internet service providers their editorial discretion and by compelling them to convey content providers messages with which they may disagree, the Order violates broadband providers First Amendment rights, the

brief says.

The First Amendment and Fifth Amendment concerns are silly, countered Matt Wood, policy director at Free Press, a digital rights group that has pushed for strong net neutrality rules. The FCC hasn t taken away Verizon s ability to communicate on its website or its blogs, and the agency hasn t taken away the carrier s network, he said.

Verizon s argument that its free speech is impacted when it provides the pipes for other people s messages is contrary to the notion to what a carrier does and how the Internet works, he said.
verizon logo

Verizon, during other debates, has argued it should not be held responsible for the communications of its broadband customers, says the Center for Democracy and Technology and a group of legal scholars in their brief to the appeals court.

The FCC s order does not violate Verizon s free speech rights, but instead protects the First Amendment interests of Internet users, CDT says in the brief. Certainly, Verizon often does speak via the Internet, using websites, blogs, email, social media, and the like. But its separate conduct in transmitting the speech of others should not be confused with Verizon s own speech.

Still, the FCC s argument that it has so-called ancillary authority to regulate broadband because it has authority over other communications services may be a tough sell, Wood said. The appeals court rejected the ancillary authority in the 2010 Comcast case, he noted.

The Supreme Court s City of Arlington case and the data roaming case give the FCC a mini-winning streak, however, Wood said. He gives the FCC a close to 50 percent chance of winning the Verizon case.

The FCC has a good chance of winning, countered Michael Weinberg, a vice president at digital rights group Public Knowledge. The agency is basically right in arguing it has the authority to regulate broadband under the Communications Act, he said.

The agency had potential court challenges in mind when it drafted the net neutrality order, Weinberg said. The FCC was thoughtful about this, he said.

Twitter Takes First Step Toward Going Public

Twitter Inc has filed for an initial public offering with U.S. regulators, the company said on Thursday, taking the first step toward what would be Silicon Valley’s most anticipated debut since Facebook Inc’s last year.

The impending IPO of the microblogging phenomenon ignited a competition among Wall Street’s biggest names for the prestige of managing its coming-out party. Goldman Sachs is lead underwriter, a source familiar with the matter said on Thursday, which is a major coup for the Wall Street bank.

Twitter filed for an IPO confidentially under a 2012 law intended to help emerging corporations with less than $1 billion in revenue go public.

Seven-year old Twitter, which allows users to send out streams of 140-character messages, has become an indispensable tool to governments, corporations and celebrities seeking to communicate with their audience, and for individuals seeking both news and entertainment.

Chief Executive Dick Costolo has for years waved off suggestions it intended to go public, saying the company remained flush with cash. Facebook's mismanaged 2012 debut and subsequent share-price plunge also chilled the consumer-dotcom IPO market.

Facebook, however, has clawed its way back to its $38 IPO price in July, and the stock is at a record high after touching $45 this week.

Twitter, which has been valued by private investors at more than $10 billion, should break even this year and is on track for 40 percent annual growth at a $1 billion annual revenue run rate, Max Wolff of Greencrest Capital estimated.

"It's completely conquered mobile. It has an enormous social network. It's becoming a key utility as a second screen to TV and it's literally the first draft of history," Wolff said.

"Normally a company like Twitter would have been public for some time," he said.

Since Jack Dorsey, Twitter's inventor, dispatched the first tweet from a downtown San Francisco office in March 2006, the service has grown into a worldwide phenomenon with more than 200 million regular users contributing more than 400 million posts a day.

The company makes money by inserting paid, targeted ads that resemble ordinary, user-generated content. Twitter's success with its advertising model created a new paradigm for mobile advertising and prompted Facebook last year to adopt a similar ad product, called Sponsored Stories.

But Twitter was one of the first to prove that in-stream ads could be a viable way to make money in the mobile era.

"There was a lot of concern about whether they'd ever be able to insert advertising into their site," said Forrester analyst Nate Elliott. "They've shown it can be effective. They offer in many ways better measurement for marketers than larger companies like Facebook."

Twitter's lead law firm will be Wilson Sonsini Goodrich & Rosati, the firm's chairman Larry Sonsini told Reuters in an email. Sonsini's firm is famous in Silicon Valley for taking public marquee names such as Apple, Netscape and Google.

Wall Street continues to jostle for a slice of its impending debut, sources told Reuters on Thursday.

Technology bankers at major banks from JPMorgan and Credit Suisse Group AG to Morgan Stanley are still vying for roles in the IPO. Several are in informal conversations with the microblogging network's management, said two sources familiar with the matter who declined to be named because it is not public.

A similar race is on around China's Alibaba, which is expected to raise more than $15 billion this year. Bank chief executives such as JPMorgan's

Jamie Dimon and Citigroup Inc’s Michael Corbat have made it a point to meet Alibaba founder Jack Ma.

Twitter’s debut, though much smaller than Facebook’s, could generate tens of millions of dollars in fees from the underwriting mandate itself. Assuming it sells around 10 percent of its shares, or $1 billion, underwriters could stand to divide a fee pool of $40 million to $50 million, assuming an overall fee cut of 4 percent to 5 percent, according to Freeman & Co.

But the benefits for banks that underwrite the deal would likely be far-reaching.

"Some companies will say, ’We liked the way you handled Twitter, and we want to come to you first when we do our IPO,’" said David Menlow, president of IPOFinancial.com.

"It’s not only bragging rights," Menlow said. "It’s getting through the front door, which will line up banks for other transactions done after that, like debt financings and M&A."

Twitter is allowed to file its registration statement confidentially due to the Jumpstart Our Business Startups (JOBS) Act, a 2012 law that loosened some of the regulations surrounding the IPO process and other forms of capital raising.

Companies that file under that law do not have to reveal certain details until 21 days before embarking on an investor roadshow.

It could allow Twitter to avoid some of the harsh public scrutiny that other tech companies such as Groupon Inc faced.

Meanwhile, Silicon Valley boosters who were left red-faced by Facebook’s stumble are hoping that Facebook’s recovery and a smooth Twitter IPO would turn investor sentiment back toward consumer Internet companies.

"If 2012 was the Facebook IPO horror story, then all of a sudden 2013 is looking very nice," said Rick Heitzmann, a venture capitalist at Firstmark Capital, which has invested in consumer Internet companies including Pinterest. "We’re now seeing that these are real companies proving they can drive very, very impressive revenue."

Facebook Privacy Policy Update May Have Violated User Rights

In Facebook s latest round of privacy policy updates, it might have violated a 2011 court order. That court order required the social networking giant to alert users when their private information would be shared with others and explain more clearly how their data was being used. According to the New York Times, the Federal Trade Commission is looking into whether or not the most recent changes to Facebook s policy give the company unprecedented access to user data.

NYT reports that Facebook s new policies make clear that users are required to grant the company wide permission to use their personal information in advertising as a condition of using the service.

Facebook argues that it cleared the policy updates with the FTC before

implementing them, and is insistent that Facebook has not been granted any additional rights on account of the new policy. Although Facebook s rules regarding usage of its users information to advertise products have been unchanged for quite some time, the language of the policy update raised a few red flags that the FTC could not ignore namely a provision that states minors are assumed to have been given permission by their parents to have their information used in Facebook ads.

It might not result in any action, but the FTC is currently investigating the legality of Facebook s proposed policy changes.

Finn Hacker Steals Personal Info in Cyber Strike

Helsinki Police say they detained a hacker last weekend suspected of accessing thousands of usernames and passwords of visitors to more than 300 websites.

Police spokesman Jukkapekka Risu said officers arrested an unnamed local man, who allegedly acknowledged his actions. Officers are analyzing his confiscated computers. They declined to give more details.

The Finnish Communications Regulatory Authority warned Friday that the suspect might have accessed "usernames and passwords of hundreds of thousands of Finns," mostly from chat forums, adding that the attacks were not aimed at banks.

Erkki Mustonen from global computer security company F-Secure Corp. said it was one of the biggest hacker attacks in the Nordic country to date and could have been prompted by a desire for the hacker to demonstrate his skills.

Man Gets 3 Years for Hacking Police Websites

A 22-year-old Ohio man linked to the hacker collective Anonymous was sentenced Thursday to three years in federal prison for breaking into police-agency websites across the country.

Court records say John Anthony Borell III used Twitter to advertise his exploits to other members of the group.

A newlywed, Borell was given until Dec. 6 to turn himself in at a federal prison near his family in Toledo, Ohio.

He was arrested after taking down police-agency websites in Utah, California, New York and Missouri in January and February of 2012.

Borell pleaded guilty to computer fraud in April and agreed to pay $227,000 in damages to computer servers that had to be repaired or beefed up for security.

Anonymous is a loosely organized group of Internet enthusiasts, pranksters and activists that has targeted organizations such as MasterCard and the Church of Scientology.

Cyberbullying Investigated in Suicide of Florida Girl

Authorities in Florida said on Friday they were investigating former schoolmates of a 12-year-old girl who killed herself in central Florida after she was bullied online for months.

It was not yet clear whether any criminal charges would be filed stemming from the suicide on Monday of Rebecca Ann Sedwick, who leaped to her death from the tower of an abandoned cement business site near her home in Lakeland.

While Polk County Sheriff Grady Judd told a news conference on Thursday that more than a dozen young girls were under investigation for bullying Sedwick, a sheriff’s office spokeswoman said the number of possible suspects had been narrowed down considerably.

"There may have been only two or three of them who participated in the bullying," said sheriff spokeswoman Donna Wood.

She added that any filing of criminal charges in the case could still take some time.

"We have to determine if a crime has been committed. We have cyber-stalking laws and cyberbullying laws. It really depends on how the case goes," Wood said

Judd said earlier that investigators found messages on social media addressed to Rebecca stating, "You should die," and "Why don’t you go kill yourself."

Speaking to reporters on Thursday, he said Sedwick was despondent and "beat down" after receiving the hate-filled messages and "absolutely terrorized."

The problems between Rebecca and her former classmates began in 2012 over a "boyfriend issue," according to Judd.

At one point, before her death, Sedwick was hospitalized for mental health treatment, and she was home-schooled before enrolling at a new school in the Lakeland area, away from her ex-classmates, the sheriff said.

After her death, investigators discovered that Sedwick had told a 12-year-old boy and online friend in North Carolina about her decision to kill herself, but he told no one, Judd said.

"I’m jumping. I can’t take it anymore," she wrote in a message to him.

UK Police: Cyber Crooks Could Have Stolen Millions

A daring attempt to graft a rogue piece of hardware onto a computer at a London branch of Spanish bank Santander could have drained millions from its coffers, police said Friday, an indication of the potential for electronic crime to tear huge chunks off financial institutions’ balance

sheets.

London police and Santander said in a joint statement that 12 suspects were arrested Thursday following an attempt by a bogus maintenance engineer to install a keyboard-video-mouse a device typically used to control several computers at once onto one of the bank's computers at a branch located in a south London shopping center.

Few other technical details were released, but the statement said that the hardware would have allowed the transmission of the entire computer's desktop and "allowed the suspects to take control of the bank's computer remotely."

Writing on the blog of Internet security firm Sophos, John Hawes said it wasn't clear how much damage the would-be robbers might have done "even with access to a workstation."

"If the systems were well controlled, secured and monitored, there should still have been plenty of obstacles to overcome before they could find their way into sensitive parts of the network, and move virtual cash out of the bank's systems," he said.

Police said they took the attempted robbery very seriously. In their statement, Det. Insp. Mark Raymond described it as a "sophisticated plot that could have led to the loss of a very large amount of money from the bank." The force put the potential losses in the millions of pounds although it stressed that no money was ever withdrawn.

It's not clear from the statement whether the person masquerading as an engineer was arrested at the scene. Police said that all but one of the 12 suspects, ranging in age from 23 to 50, were apprehended in the same west London neighborhood.

The scale of the potential theft is another reminder of the huge amounts that can be stolen by tech-savvy criminals. U.S. investigators say that one gang operating across 27 countries recently managed to steal $45 million in two separate sprees after compromising payment systems used by two Middle Eastern banks.

The suspects in the latest heist remain in custody. Police said searches were being carried out in six different locations in the greater London area. Santander said none of its staff were involved in the attempted heist.

Google's Trojan Horse: How Chrome Apps Will Finally Take On Windows

Today, on Chrome's fifth birthday, Google is announcing the rollout of what it's calling Chrome Apps. Don't feel bad if you're confused by the name. Chrome has been serving up web apps since 2010 when the Chrome Web Store opened up alongside the launch of the Chrome OS. Chrome Apps, however, are different than what's been offered before. They comprise Google's bid to elevate the browser into a true app platform one that it thinks could one day be a legitimate rival to Windows, OS X, and someday iOS and even Android.

The new apps look and behave much like the native apps you find on Windows and OS X. They're built using web technologies, but also with

Chrome-specific code that means they won’t be able to run on other web browsers they’re truly Chrome apps. "A new class of apps"They can exist outside of your browser window as distinct apps, work offline, and sync across devices and operating systems. They can also access your computer’s GPU, storage, camera, ports, and Bluetooth connection. Chrome Apps are, for now, only available through Chrome on Windows or Chrome OS on a Chromebook. Mac users will have to wait another six weeks before their version of Chrome will be updated.

The Chrome team tells The Verge that its rather ambitious goal is for Chrome Apps to be so polished and so powerful that users can’t decipher between this new breed of apps and regular old Windows apps. Chrome Apps are designed to help turn Chrome OS into a truly viable desktop OS instead of a de-facto second computer. "We want to make Chrome OS a full-fledged operating system," says Brian Rakowski, a Chrome VP. "We want to make sure there are no reasons it s not the right product for everyone."

At launch, Google says that more than 50 Chrome Apps are available in the Chrome Web Store. While big-name developers aren’t on board yet, the selection does at least show the potential for Chrome to grow into a legitimate platform. Pixlr Touch Up offers basic photo editing that wasn’t native on Chrome before. Task-management app Wunderlist is slick and works outside of the browser window. Perhaps the best of the bunch is Pocket, which makes links you save while browsing the web available offline.

""Users may not even fully grasp what it means to be a Chrome App, and hat’s okay.""

Chrome Apps amount to a Trojan horse for Google. By way of the Chrome browser, the company is essentially putting its own app ecosystem right on top of Windows and OS X. It’s a play that’s been months in the making. "There are still reasons why a developer would build a native app over a Chrome App today, but we’re working to tackle each one," Rakowski says. Google began promoting a handful of Chrome Apps (then called Packaged Apps) in May. In July, its Chrome notification center was pushed out to Windows and Chrome OS users, allowing for alerts and pop-ups outside the browser window. And for months, Chrome’s developer channels have shipped with an app launcher that lives in the Windows taskbar this launcher rolled out to the public today too.

Even so, Google says it’s not abandoning the web, merely adding more options for users. It doesn’t have a specific agenda to push users into switching to Chrome Apps instead of web apps if the situation doesn t call for it. "Users don’t care what technology their apps are built with," says Rahul Roy-Chowdhury, a project manager overseeing the Chrome Apps push. "Users may not even fully grasp what it means to be a Chrome App, and that’s okay. We want Chrome Apps to be so good you don’t even realize it’s something different."

"We’re targeting the desktop as our first order of business because that’s where the majority of our users are," he adds. "We want to nail that first. But our goal, eventually, is to get this to run everywhere that Chrome runs." According to StatCounter, about 42 percent of web surfers use Chrome, making it the most popular browser on the planet. Since Chrome is so ubiquitous, Roy-Chowdhury argues that it’s an ideal avenue for app developers who want to reach as many users as possible. "At the end of the day, developers have a choice do I build a web app, do I build a native app, or do I build a Chrome App," he says. "Building a different version of your app for each individual operating system takes time and gets expensive. So our hope is that, if you want to be on every

platform, you'll build a Chrome App because eventually, you'll be able to run Chrome Apps everywhere."

Currently, Chrome Apps are only a reality on the desktop, but the team says it has a long-term plan to bring the same technologies to mobile apps, and to deliver them through the channels consumers are used to Google Play on Android and the App Store on iOS. "We don't want to recreate the wheel," Roy-Chowdhury says. "We want to build for the future, we want to build a platform that delivers apps that are available wherever you are, whatever OS you're on, syncing across all your screens desktop or mobile." Still, the team cautions that Chrome Apps on mobile devices won't be happening anytime soon. That's no surprise as long as mobile operating systems have existed, true cross-platform development has been a nearly impossible problem to solve.

Mobile aspirations aside, Google is stepping back from the web standards approach Chrome has been known for just to pull all this off on the desktop. But the Chrome team said it's doing so not because it's giving up on web standards, but because some of what ""We still believe in the web.""it needs to do to compete with Windows and OS X calls for functionality that isn't appropriate for the web. That includes letting an app access a local hard drive or a USB-connected device, says Erik Kay, an engineering director who helped build the Chrome Apps developer tools. "We still believe in the web as much as we ever have," Kay says. "But this is the only way to write full desktop, native-quality apps for Chrome OS. Chrome OS is a big bet for us, so we want it to be every bit as powerful as a desktop operating system."

But Chrome Apps aren't the only major gamble Google is making when it comes to its relationship with the web. The Chrome team recently forked WebKit and created its own rendering engine, Blink. Both initiatives push Chrome into the territory of proprietary technologies. While all this remains open source and allows competitors to use what Google has built, the company runs the risk of de-emphasizing many of the web app standards it once championed. Chrome's chance to be the next great app platform is at stake, but so is its current place as the world's leading browser, as well as Google's own reputation as a proponent of the open web.

Rakowski says both the Chrome Apps and Blink efforts are necessary if Chrome OS is to grow into a viable alternative to Windows and OS X. But so far, while the new Chrome Apps are novel and free from the browser window, none are revolutionary or close to the quality of desktop stalwarts like Photoshop, Apple's iLife line, or even Microsoft Office. Chrome Apps will have to match, if not surpass, these defining applications in order to prove that Chrome can be a real app platform, not just a browser. The potential and ambition are evident, but now the work of convincing developers and users to get on board really begins.

Apple Alum: Apple's Not Innovative Anymore

Another Apple alum is unimpressed with the current direction of the company: This time it s former design contractor Hartmut Esslinger, who helped Steve Jobs create the original Mac in the early 1980s, and who recently said that the iPhone is no longer smart enough to be considered truly innovative.

As soon as you can copy something [like the iPhone], it s not smart enough anymore, he explained, according to The Atlantic Wire. I think Apple has reached, in a certain way, a saturation the curve [of innovation] was really steep seven to eight years ago But now my iPhone is so full I am deleting apps because I want to keep it simple.

It s a backhanded compliment, no doubt, referencing the imagination and early success of the company s smartphone, a brainchild of the late Steve Jobs. But Esslinger now feels that, since coming forward with the iPhone and iPad, Apple s vision for innovation has diminished, something that has allowed for other companies to catch up to Apple.

The retired industrial designer got to know and understand Jobs well, something he has recounted in a memoir, Keep it Simple, set to release in October. Esslinger partnered with Jobs to create the Snow White design language featured on Apple’s Macintosh computer beginning in 1984. He also followed Jobs to NeXT, the former Apple co-founder’s other computer company.

Steve Jobs was a man who didn t care for any rational argument why something should not be tried, Esslinger said, per The Atlantic Wire. [Jobs] said a lot of no, but he also said a lot of yes to things and he stubbornly insisted on trying new things.

This sentiment has been echoed by former Apple CEO John Sculley. In a 2010 interview posted by tech site Cult of Mac, Sculley said of Jobs, He was a person of huge vision. But he was also a person that believed in the precise detail of every step. He was methodical and careful about everything   a perfectionist to the end.

What makes Steve s methodology different from everyone else s is that he always believed the most important decisions you make are not the things you do   but the things that you decide not to do., Sculley continued. He s a minimalist.

Apple co-founder Steve Wozniak, much like Esslinger, has also offered comments regarding the stale state of innovation in the company. In February of this year, Woz told German economic news site Wirtschafts Woche that, "Currently [Apple is], in my opinion, somewhat behind, according to TechRadar.

Others have caught up. Samsung is a great competitor. But precisely because they are currently making great products," Wozniak remarked.

Apple did announce a couple of new iPhones this week, but the new iPhone 5s and 5c, both slight variations on last year s iPhone 5, might not quite represent the kind of new innovation that some Apple critics are calling for. (Though we can’t help but wonder if Esslinger thought the gold version of the iPhone 5s was a nice touch.)

Intel Reverts Plans, Will Not Support Ubuntu’s XMir

In an interesting change of events, the mainline Intel Linux graphics driver has reverted the patch to support XMir - the X11 compatibility layer for the Mir Display Server in Ubuntu Linux.

This week there was the surprise of the Intel 3.0 Linux DDX driver coming

and with it SNA acceleration is enabled by default and it also integrated support for XMir. There's small work needed to the DDX X.Org graphics drivers to be able to support running XMir, similar to XWayland for Wayland users. The support was merged as Canonical said the XMir API should be stable.

However, this morning the XMir work was reverted. In releasing a new 3.0 xf86-video-intel driver snapshot, Intel's Chris Wilson wrote in a Git commit:

    We do not condone or support Canonical in the course of action they have chosen, and will not carry XMir patches upstream.

    -The Management

Intel, which is a company heavily invested in Wayland and has many full-time employees working on the competing display server (including Kristian Hłgsberg, the Wayland founder), now doesn't want any XMir support in their mainline driver. It's interesting to see Intel management force the XMir removal from the Intel driver just days after it was committed and to publicly state a neutral stance on Canonical's controversial display server.

Canonical will now need to carry the XMir support out-of-tree from the xf86-video-intel driver. Canonical is also carrying patched versions of Mesa, xf86-video-ati, and xf86-video-nouveau for being able to support Mir/XMir in Ubuntu 13.10. The binary AMD and NVIDIA graphics drivers also remain incompatible with Mir.

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